



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/044,945	01/15/2002	Mikio Iwamura	218127US2	1514
22850 7590 05/30/2007 OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C. 1940 DUKE STREET ALEXANDRIA, VA 22314			EXAMINER MATTIS, JASON E	
			ART UNIT 2616	PAPER NUMBER
			NOTIFICATION DATE 05/30/2007	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com
oblonpat@oblon.com
jgardner@oblon.com

Advisory Action Before the Filing of an Appeal Brief	Application No.	Applicant(s)	
	10/044,945	IWAMURA ET AL.	
	Examiner	Art Unit	
	Jason E. Mattis	2616	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 24 April 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: see attached response to arguments.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.


HUY D. VU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

DETAILED ACTION

1. This Advisory Action is in response to the Amendment After Final filed 4/24/07. Claims 1-12 are currently pending in the application/

Response to Arguments

2. Applicant's arguments filed 4/24/07 have been fully considered but they are not persuasive.

In response to Applicant's argument that the previous Office did not answer the substance of all the points raised in the amendment, the Examiner respectfully disagrees. The response to Applicant's argument that the rejections should be traversed "because the suggested modification to Gandhi would clearly require substantial reconstruction and redesign of the elements shown in Gandhi as well as a change in the basic principle under which the Gandhi construction was designed to operate" is found in the response to the argument that the teachings Gandhi and Khaleghi are not compatible. It is again pointed out that Gandhi teaches a system and method of controlling access of subscriber stations to a wireless communications system based on a first and second measured performance indicator (See the abstract of Gandhi). Khaleghi teaches a system and method for controlling call admission in a wireless system based on measured and desired load levels for data calls and voice calls (see the abstract of Khaleghi). Since Gandhi and Khaleghi both deal with

Art Unit: 2616

controlling access and call admission of wireless system based on measured performance indicators it does not require a substantial redesign of the system and method of Gandhi in order to incorporate the measured performance indicators used in the system and method of Khaleghi. The combination of teachings used in the rejections further do not cause a change in the basic principle under which the system and method Gandhi was designed to operate, as argued. Gandhi already discloses that a loading level indicator is used in determining a blocking threshold used to control access (See column 3 lines 42-49 and column 4 lines 47-50 of Gandhi et al.). Khaleghi discloses controlling call admission based on a load indicator calculated in accordance with a number of active data users, N_B (See column 7 lines 1-8 and column 9 lines 35-60 of Khaleghi). Therefore, the rejections are based on a combination of Gandhi's teaching of controlling access based on a blocking threshold that is adjusted in accordance with a loading level indicator with Khaleghi's teaching that a load indicator should be calculated based on the number of active data users. This combination neither requires substantial reconstruction and redesign of the elements shown in Gandhi nor does it require a change in the basic principle under which the Gandhi construction was designed to operate.

In response to Applicant's further arguments that the Gandhi and Khaleghi are not compatible and do not deal with the same problem in the same filed of art, the Examiner respectfully disagrees. The abstracts of Gandhi and Khaleghi respectively both show that they deal with the same problem of controlling wireless access based on measured load indicators (See the abstract of Gandhi for reference to controlling access

Art Unit: 2616

based on a second performance indicator, which is a loading indicator, and see the abstract of Khaleghi for reference to controlling call admission based on measured and desired load levels). Therefore, Gandhi and Khaleghi are in the same field and do deal with the same problem of controlling access to wireless resources.

In response to Applicant's argument that Khaleghi's teachings are not equivalent to the claimed "calculating a correction value in accordance with a number of actively connected packet users of said packet switching", the Examiner respectfully disagrees. First, Khaleghi discloses that a calculated average load value for data users should be based only on the number of active data users, N_B , and not on the total number of admitted data users, N_D (See column 7 lines 1-8 of Khaleghi). Khaleghi also discloses that the number of active data users, N_B , is used in the calculation of the current transmit power of data users (See the equations in columns 7-9 of Khaleghi that used the number of active data users, N_B , to calculate current data user power). Khaleghi further discloses that reserved power for current data calls is adjusted based upon the calculated current transmit power of data users, which is determined based on the number of active data users, and Khaleghi also discloses that this reserved power for current data calls is used to determine whether a new data call is admitted or not (See column 9 line 35 to column 11 line 9). Thus, Khaleghi does disclose calculating a correction value (the reserved power for current data calls) in accordance with a number of actively connected packet users (N_B) of said packet switching, as claimed.

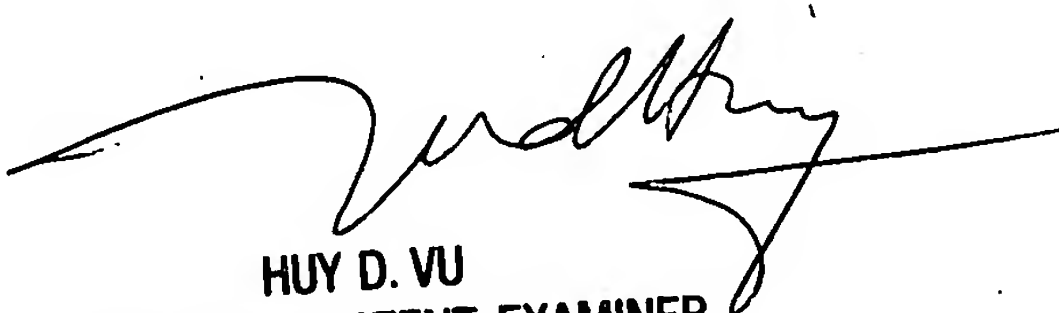
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason E. Mattis whose telephone number is (571) 272-3154. The examiner can normally be reached on M-F 8AM-5:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Huy Vu can be reached on (571) 272-3155. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

jem


HUY D. VU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600